

1 DALE M. CENDALI, ESQ. (admitted *pro hac vice*)
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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
10

11 RIGHTHAVEN LLC, a Nevada limited-liability
12 company,

Plaintiff,

13 v.

14 DEMOCRATIC UNDERGROUND, LLC, a District
15 of Columbia limited-liability company; and DAVID
ALLEN, an individual,

16 Defendants.
17

18 DEMOCRATIC UNDERGROUND, LLC, a District
19 of Columbia limited-liability company,
Counterclaimant,

20 v.

21 RIGHTHAVEN LLC, a Nevada limited-liability
22 company; and STEPHENS MEDIA LLC, a Nevada
limited-liability company,

23 Counterdefendants.
24

Case No.: 2:10-cv-01356-RLH-CWF

**MOTION AND PROPOSED ORDER TO
WITHDRAW AS COUNSEL OF
RECORD**

25 Pursuant to Local Rule IA 10-6, S.C.R 46, and N.R.P.C. 1.16 (b)(1) and (7), Dale Cendali,
26 Esq. respectfully moves this court for an order permitting Dale Cendali, Esq. (“Ms. Cendali”), who
27 has appeared in these proceedings, to withdraw as counsel for Righthaven LLC (“Righthaven”), in
28 the above captioned matter. This Motion is based upon the Memorandum of Points and Authorities

1 submitted herein, the Declaration of Dale Cendali, Esq., attached hereto, the pleadings and papers on
2 file herein, and any argument adduced at the hearing of this Motion to Withdraw as Counsel of
3 Record.

4
5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 Kirkland & Ellis LLP and Ms. Cendali were retained by Righthaven LLC to represent the
7 company in the above-captioned matter solely in connection with Righthaven's motion to intervene
8 (Dkt. 120), which has been completed. While the complaint was filed on August 10, 2010, Ms.
9 Cendali did not petition to appear *pro hac vice* until June 22, 2011 (Dkt. 119), after the Court's
10 Order to dismiss Righthaven (Dkt. 116) issued. Co-counsel Shawn Mangano was to handle all other
11 aspects of the case, including the day-to-day running of the case, and continues to be counsel of
12 record for Righthaven. The Court's Order denying Righthaven's motion to intervene issued in
13 August 2011 (Dkt. 157). At that point, Ms. Cendali was told by Righthaven that her job was done
14 and that Mr. Mangano would handle the rest of the case.

15 Save for the initial retainer provided by Righthaven, Righthaven has not paid any of the legal
16 fees due to Kirkland & Ellis. Neither Ms. Cendali nor Kirkland & Ellis has done any work for
17 Righthaven since August 2011.

18 Local Rule IA 10-6 (b) provides that "No attorney may withdraw after appearing in a case
19 except by leave of Court after notice has been served on the affected client and opposing counsel."
20 Righthaven has received notice of Kirkland & Ellis and Ms. Cendali's intent to withdraw from this
21 case and has consented to the withdrawal. Additionally, opposing counsel in this case will receive
22 notice of this Motion to Withdraw via the CM/ECF system, pursuant to the certificate of service
23 attached herein.

24 Local Rule IA 10-6 (e) provides that "no withdrawal... shall be approved if delay of
25 discovery, the trial or any hearing in the case would result." Here, no delay will result from Ms.
26 Cendali's withdrawal because Righthaven is represented in this matter by Shawn Mangano. In
27 addition, there is no pending discovery, trial or hearing that would be delayed by Ms. Cendali's
28 withdrawal. Ms. Cendali's withdrawal will not prejudice any party or delay any proceeding in this

1 matter.

2 **CONCLUSION**

3 For the reasons set forth above, Ms. Cendali respectfully moves this Court to enter an order
4 approving the withdrawal of Ms. Cendali as a representing attorney for Righthaven in the instant
5 matter.

6 Dated this 21st day of March, 2012.

7 By: /s/ Dale M. Cendali
8 DALE M. CENDALI, ESQ. (admitted *pro hac vice*)
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12 **IT IS SO ORDERED:**

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14 _____
UNITED STATES DISTRICT JUDGE

15 **DATED:** March 22, 2012

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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that on this 21st day of March, 2012, I caused the foregoing document to be served by the Court's CM/ECF system on all counsel of record.

By: /s/ Dale M. Cendali
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**DECLARATION OF DALE CENDALI,
ESQ. IN SUPPORT OF MOTION TO
WITHDRAW AS COUNSEL OF
RECORD**

24 I, Dale Cendali, declare, under penalty of perjury, that the following is true and correct:

25 1. I am a partner in the law firm of Kirkland & Ellis LLP. I have personal knowledge of
26 the facts set forth below and I believe them to be true. I am over eighteen years old and I am
27 competent to testify to the matters set forth herein.
28

1 2. Kirkland & Ellis LLP was retained by Righthaven LLC to represent the company in
2 the above-captioned matter solely in connection with the Court’s June 14, 2011 Order dismissing
3 Righthaven for lack of standing (Dkt. 116) and Righthaven’s subsequent motion to intervene (Dkt.
4 120).

5 3. The complaint had been filed on August 10, 2010, and I did not petition to appear *pro*
6 *hac vice* until June 22, 2011 (Dkt. 119).

7 4. I was instructed by Righthaven that my duties were limited to working with Shawn
8 Mangano, Righthaven’s primary outside counsel, with the briefing relating to Righthaven’s motion
9 to intervene and that Mr. Mangano would handle all other aspects of the case, including the day-to-
10 day running of the case.

11 5. The Court’s Order denying Righthaven’s motion to intervene issued in August 2011
12 (Dkt. 157). At that point we were told by our client that our job was done and that Mr. Mangano
13 would handle the rest of the case by himself.

14 6. Save for the initial retainer provided by Righthaven, Righthaven has not paid any of
15 the legal fees due to my firm, Kirkland & Ellis LLP. Neither I nor my firm has done any work for
16 Righthaven since August 2011, and we were told that Mr. Mangano was handling the case.

17 7. In light of the above, I am seeking leave to withdraw as counsel. Righthaven has
18 consented to my withdrawal.

19
20 Dated this 21st day of March, 2012.

21 By: /s/ Dale M. Cendali
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